

**IC 13-20-6****Chapter 6. Requirements for Municipal Waste Transfer Activities****IC 13-20-6-1****Applicability of chapter**

Sec. 1. This chapter does not apply to a person who:

- (1) generates municipal waste on a site owned or operated by the person; and
- (2) disposes of the municipal waste at a site that:
  - (A) is owned or operated by the person; and
  - (B) for the purpose of municipal waste disposal, may only be used by the person to dispose of municipal waste generated by the person.

*As added by P.L.1-1996, SEC.10.*

**IC 13-20-6-2****Disclosure statement; contents; oath or affirmation; investigation; amendments**

Sec. 2. (a) Before an operator engages in municipal waste transfer activities, the operator and each responsible party must submit a disclosure statement to the department that:

- (1) meets the requirements set forth in subsection (b); and
- (2) is executed under subsection (c).

(b) The disclosure statement required under this section must set forth the following information:

- (1) The name, business address, and Social Security number or federal taxpayer identification number of the operator or responsible party.
- (2) A description of the operator's or responsible party's experience in the collection, transportation, and disposal of municipal waste.
- (3) A description of all civil and administrative complaints against the operator or responsible party for the violation of a state or federal environmental protection law that:
  - (A) have resulted in a fine or civil penalty of more than ten thousand dollars (\$10,000) within five (5) years before the date of the submission of the disclosure document; or
  - (B) allege an act or omission that:
    - (i) constitutes a material violation of the state or federal environmental protection law; and
    - (ii) presented a substantial endangerment to the public health or the environment;within five (5) years before the date of the submission of the disclosure document.
- (4) A description of all pending criminal complaints alleging the violation of a state or federal environmental protection law that have been filed against the operator or responsible party within five (5) years before the date of submission of the disclosure statement.
- (5) A description of all judgments of criminal conviction

entered against the operator or responsible party within five (5) years before the date of submission of the disclosure statement for the violation of a state or federal environmental protection law.

(6) A description of all judgments of criminal conviction of a felony constituting a crime of moral turpitude under the laws of a state or the United States that are entered against the operator or responsible party within five (5) years before the date of submission of the disclosure statement.

(7) A description of federal, state, and local environmental permits, including identification numbers, that the operator or responsible party holds.

(c) A disclosure statement submitted under subsection (a) must be:

(1) executed under oath or affirmation; and

(2) subject to the penalty for perjury under IC 35-44-2-1.

(d) The department may investigate and verify the information set forth in a statement required under this section.

(e) Before December 31 of each year, an operator or a responsible party who has submitted a disclosure statement under this section must submit to the department a statement that:

(1) describes changes that have:

(A) occurred since the filing of the disclosure statement; and

(B) made the information contained in the disclosure statement no longer current; or

(2) indicates that no changes described in subdivision (1) have occurred.

*As added by P.L.1-1996, SEC.10.*

### **IC 13-20-6-3**

#### **Suspension of waste transfer activities; conditions; mitigating factors; findings of fact**

Sec. 3. (a) The commissioner may order a suspension of an operator's waste transfer activities if the commissioner finds that any of the following have occurred:

(1) The operator or a responsible party has intentionally misrepresented or concealed a material fact in a disclosure statement or an annual update of a disclosure statement required under section 2 of this chapter.

(2) A civil or administrative complaint described in section 2(b)(3) of this chapter has been filed against the operator or a responsible party within five (5) years before the date of submission of the disclosure statement or an annual update of a disclosure statement.

(3) A criminal complaint described in section 2(b)(4) of this chapter has been filed against the operator or a responsible party within five (5) years before the date of submission of the disclosure statement or an annual update of a disclosure statement.

(4) A judgment of criminal conviction described in section 2

(b)(5) or 2(b)(6) of this chapter has been entered against the operator or a responsible party within five (5) years before the date of submission of the disclosure statement or an annual update of a disclosure statement.

(5) The operator or a responsible party has knowingly and repeatedly violated a state or federal environmental protection law.

(b) Before making a determination to order the suspension of an operator's waste transfer activities under subsection (a), the commissioner shall consider the following mitigating factors:

(1) The nature and details of the acts attributed to the operator or responsible party.

(2) With respect to:

(A) a civil or an administrative complaint referred to in subsection (a)(2); or

(B) a criminal complaint referred to in subsection (a)(3); whether the matter has been resolved.

(3) With respect to:

(A) a civil or an administrative complaint referred to in subsection (a)(2);

(B) a criminal complaint referred to in subsection (a)(3); or

(C) a judgment of conviction referred to in subsection (a)(4); whether any appeal is pending.

(4) The degree of culpability of the operator or responsible party.

(5) The operator's or responsible party's cooperation with the state or federal agencies involved in the investigation of the activities involved in complaints and convictions referred to in subsection (a)(2) through (a)(5).

(6) The operator's or responsible party's dissociation from any other persons or entities convicted of acts referred to in subsection (a)(2) through (a)(5).

(7) Prior or subsequent self-policing or internal education programs established by the operator or responsible party to prevent activities referred to in subsection (a).

(8) Any demonstration of good citizenship by the operator or responsible party.

(9) If the best interests of the public would be served by precluding the operator from engaging in waste transfer activities.

(c) The commissioner shall make separately stated findings of fact to support a finding made under this section.

(d) The findings of ultimate fact must be accompanied by a concise statement of the underlying basic facts of record to support the findings. However, the commissioner is not required to explain the extent to which any of the mitigating factors described under subsection (b) influenced the commissioner's finding.

*As added by P.L.1-1996, SEC.10.*

**Suspension of waste transfer activities of nonresident operator or operator that failed inspection; notice; contents; reinstatement**

Sec. 4. (a) The commissioner may, by order, do the following:

- (1) Suspend the waste transfer activities of an operator who is not a resident of Indiana if the operator is not properly licensed, certified, or permitted to conduct waste transfer activities in another state in which the operator does business.
- (2) Suspend the waste transfer activities of a transfer station that does not meet the requirements of the inspection program established under section 7 of this chapter.

(b) An order issued by the commissioner under this section requiring an operator or transfer station to suspend operations must contain the date by which waste transfer activities must be suspended.

(c) After issuing an order requiring an operator or transfer station to suspend waste transfer activities but before the date by which the activities must be suspended, the department must provide notice by certified mail, return receipt requested, to the following:

- (1) Each regulated solid waste processing facility in Indiana.
- (2) Each regulated solid waste disposal facility in Indiana.
- (3) Each broker and transporter that has submitted a disclosure statement under section 2 of this chapter.

(d) The notice described under subsection (c) must contain the following:

- (1) The name of the operator or transfer station subject to the order.
- (2) The date on which waste transfer activities are suspended under the order.
- (3) The acknowledgement number issued to the operator under section 5 of this chapter.
- (4) If the order applies to a transfer station, the location of the transfer station.

(e) Upon a determination by the commissioner that an operator previously ordered to suspend waste transfer activities may engage again in waste transfer activities, the department shall immediately provide notice by certified mail, return receipt requested, to each:

- (1) regulated solid waste processing facility in Indiana;
- (2) regulated solid waste disposal facility in Indiana; and
- (3) broker and transporter that submitted a disclosure statement under section 2 of this chapter;

that the operator or transfer station will be allowed to resume waste transfer activities. The notice required under this subsection must contain the date on which the operator or transfer station will be allowed to resume waste transfer activities.

*As added by P.L.1-1996, SEC.10.*

**IC 13-20-6-5**

**Acknowledgment of receipt of disclosure statement**

Sec. 5. When an operator or responsible party submits an initial disclosure statement or an annual update of a disclosure statement to

the department under this chapter, the department shall send a letter to the operator or responsible party that:

- (1) acknowledges the receipt of the disclosure statement; and
- (2) contains an acknowledgement number issued to the operator by the department.

*As added by P.L.1-1996, SEC.10.*

#### **IC 13-20-6-6**

##### **Nonresident operators; bond**

Sec. 6. An operator who is not a resident of Indiana:

- (1) shall post a surety bond with the department in an amount and at a time that is:
  - (A) determined under rules adopted by the board; and
  - (B) necessary to ensure the collection and payment of any civil penalties that the operator may be required to pay in Indiana because of the solid waste transfer activities of the operator; and
- (2) is considered to appoint the secretary of state as the operator's agent for purposes of service of process in connection with any matter involving solid waste transfer activities.

*As added by P.L.1-1996, SEC.10.*

#### **IC 13-20-6-7**

##### **Inspection of transfer stations; fees**

Sec. 7. (a) The department shall establish a uniform transfer station inspection program to protect the health of the residents of Indiana and the environment of Indiana:

- (1) for transfer stations located:
  - (A) inside Indiana; and
  - (B) outside Indiana;

that receive municipal waste and that engage in waste transfer activities; and

- (2) under rules adopted by the solid waste management board.

(b) The solid waste management board shall establish fees payable by the transfer stations inspected. The amount of a fee imposed for the inspection of a transfer station may not exceed the cost of time and materials directly expended by:

- (1) the department; or
- (2) a contractor hired by the department;

for conducting the inspection of the transfer station.

*As added by P.L.1-1996, SEC.10.*

#### **IC 13-20-6-8**

##### **Prohibition on transfer activities during suspension; acceptance of waste by disposal facility; conditions**

Sec. 8. (a) An operator who is not a resident of Indiana or a transfer station may not engage in waste transfer activities while the operator or transfer station is suspended from engaging in waste transfer activities under section 3 or 4 of this chapter.

- (b) On or after the effective date established under a rule adopted

by the board, a solid waste disposal facility or a solid waste processing facility located inside Indiana may not knowingly accept municipal waste from a transfer station located inside of or outside of Indiana that receives municipal waste if:

(1) the municipal waste is not accompanied by a manifest that contains the information required under IC 13-20-4-7; or

(2) the person who manages the solid waste disposal facility or solid waste processing facility has received notice under section 4(c) of this chapter that:

(A) the transfer station that shipped the municipal waste; or

(B) an operator listed on the manifest;

has been suspended from engaging in waste transfer activities under this chapter.

*As added by P.L.1-1996, SEC.10.*

### **IC 13-20-6-9**

#### **Rules**

Sec. 9. The solid waste management board shall adopt rules under IC 4-22-2 to implement this chapter.

*As added by P.L.1-1996, SEC.10.*